HON'BLE SRI JUSTICE GODA RAGHURAM

Writ Petition No.5599 of 2006

Between:

Sayyed Khaja and others … Petitioners

And

Registrar of Co-koperative Societies,

Andhra Pradesh, Hyderabad and others.

… Respondents

March 21, 2006

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Oral Order:

Petitioners claim to have been nominated to the managing committee of the 5th respondent society under the provisions of Section 31 (1-A) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') on 19-12-2005. They also claim to have assumed charge as members of the managing committee on 20-2-2006. They complain that on 27-2-2006 the President of the 5th respondent society convened a meeting of the managing committee without intimating them. On 6-3-2006, they complained to respondents 1 to 4 regarding the above conduct of the 5th respondent, but there was no action. Again, on 17-3-2006, the President of the 5th respondent society convened another meeting without intimation to the petitioners and at that meeting it was decided to convene a general body meeting on 31-3-2006. Petitioners have no invitation to the meeting of the general body either. Petitioners claim that as a legitimate consequence of their nomination to the managing committee of the 5th respondent society, they are entitled to participate in all meetings of the managing committee, as also the general body, though without voting rights. Petitioners' status thus derived from their nomination has been stultified by the 5th respondent and respondents 1 to 4 are keeping silent despite their complaint, is the grievance in this writ petition.

The petitioners have an effective alternative remedy by way of arbitral reference under Section 61 of the Act in respect of any grievance they have against the 5th respondent society. The petitioners, if and when they desire to invoke the remedy under Section 61, will be entitled as of right to a decision on merits, on the legitimacy of the alleged conduct of the 5th respondent. There is no need for the petitioners to

beseech the administrative discretion of respondents 1 to 4 when the legislature has created a coercive adjudicatory process for their benefit. In any event, recourse to this Court under Article 226 of the Constitution to resolve their disputes with the society is not permissible, as the 5th respondent is not a State or an instrumentality of the State within the meaning of Article 12 of the Constitution and also for the reason that the petitioners have an alternative remedy under Section 61 of the Act.

For the aforesaid reasons, the writ petition is dismissed at the stage of admission. Petitioners are at liberty to pursue the appropriate remedies.

GODA RAGHURAM, J

March 21, 2006

svs